



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Department of Energy--Payment of Registration  
Fees for Competitive Fitness and Sports  
Activities

**File:** B-256194

**Date:** June 1, 1994

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### DIGEST

The Department of Energy may not use appropriated funds to pay the registration fees of employees participating in competitive fitness promotions, team activities and sporting events. Although the Department may include physical fitness activities in the health service program it provides employees under 5 U.S.C. § 7901, participation in competitive fitness or sporting events are personal activities of the employees involved, the costs of which should be borne by the employees.

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### DECISION

The Director, Financial Management Division, Department of Energy, Albuquerque Operations Office, has requested our decision on whether appropriated funds may be used to pay registration fees of employees participating in area competitive fitness promotions, team activities, and sporting events. The Director's letter indicates that it has been determined that participation in these events promotes and maintains the physical and mental fitness of Office employees. As indicated below, we conclude that appropriated funds may not be used to pay these registration fees.

### BACKGROUND

According to the Director, the Albuquerque Operations Office provides a health and fitness program for its employees. This program includes such activities as fitness and exercise programs, medical services, an employee assistance program, and a drug-free workplace. As part of the fitness and exercise programs, the Albuquerque Operations Office operates an on-site fitness center consisting of an exercise area, shower-locker rooms, and various free weights, weight training machines, free weight and aerobics exercise equipment. To encourage fitness, the Albuquerque Office sponsors fitness testing, aerobic classes during lunch and after work as well as competitive fitness promotions, team activities and sporting events.

In the past, the Office as part of its external activities has paid registration fees for its employees to participate in a local annual fitness event and a "Corporate Challenge" event. In fiscal year 1992, the Albuquerque Operations Office paid a total of \$3,450 for 225 employees to participate in the local event and another \$1,569 for approximately 125 employees to participate in the Corporate Track and Field event. In fiscal year 1993, \$1,700 was paid for approximately 135 employees to participate in the Corporate Track and Field Event. The Director stresses that these fitness events "are considered important to our overall program."

#### DISCUSSION

Section 7901 of Title 5, United States Code, authorizes heads of departments or agencies to establish health service programs to promote and maintain the physical and mental health of employees. Health service programs may contain "preventive programs relating to health." 5 U.S.C. § 7901(c)(4). This language permits physical fitness and exercise activities as part of health service programs. 64 Comp. Gen. 835, 838 (1985).

The Office of Personnel Management (OPM) includes the establishment and operation of "physical fitness programs and facilities designed to promote and maintain employee health" in its list of appropriate preventive health programs. See Federal Personnel Manual (FPM), ch. 792 (Inst. 261, December 31, 1980), as amended by FPM Letter 792-15 (April 14, 1986).<sup>1</sup> Therefore, an agency may provide employees with a physical exercise program "as part of a bona fide preventive program relating to health." See 70 Comp. Gen. 190, 193 (1991).

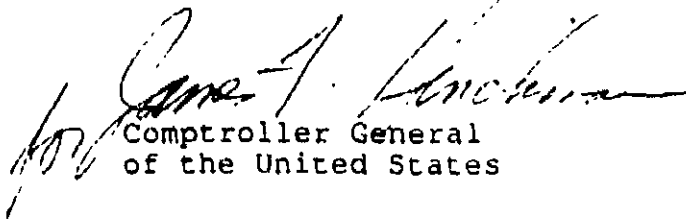
The authority provided by 5 U.S.C. § 7901(c)(4), as interpreted by OPM, however, does not provide agencies with authority to pay for any employee sport and recreational activities. The competitive events described in the Director's letter are not an essential part of a "physical fitness program" as that term is commonly used to justify the expenditures of taxpayer funds under 5 U.S.C. § 7901. Although the external competitive opportunities may well promote physical fitness and well-being, so would any number of other competitive recreational activities. In our opinion, these activities are generally personal, rather

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<sup>1</sup>Although FPM Chapter 792 has been abolished, FPM letter 792-15 has been provisionally retained through December 31, 1994. FPM Sunset Document, OPM Doc. 157-53-8, p. 91, 12/31/93.

than official, and their costs should be borne by the participating employees, not by the taxpayers.

Absent some other specific authority or unusual factual circumstances, 42 Comp. Gen. 233 (1962); 54 Comp. Gen. 1075 (1975), appropriated funds may not be used to pay registration fees for employees participating in competitive fitness or sporting events.

  
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